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STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

September 8, 2006

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

Kauai

Forfeiture of General Lease No. S-3960, Hitoshi Miyabara and  
Hatsue Miyabara, and Mark Kakimoto, Lessees, Hanapepe,  
Kauai, Tax Map Keys: (4) 1-9-2:1 and 20.

PURPOSE:

Forfeiture of General Lease No. S-3960, Hitoshi Miyabara and  
Hatsue Miyabara, and Mark Kakimoto, Lessee.

LEGAL REFERENCE:

Section 171-39, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Hanapepe situated at Hanapepe,  
Kauai, identified by Tax Map Keys: (4) 1-9-2:1 and 20, as shown  
on the attached map labeled Exhibit A.

AREA:

.93 acres, more or less.  
6.053 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State  
Constitution: NO

CHARACTER OF USE:

Taro cultivation purposes.

TERM OF LEASE:

53 years, commencing on February 17, 1966 and expiring on  
February 16, 2019.

ANNUAL RENTAL:

\$570.00 due in semi-annual payments.

REMARKS:

Pursuant to the authority granted the Chairperson by the Board of Land and Natural Resources at its meeting of January 11, 1980 and the breach provision contained in General Lease S-3960, Hitoshi Miyabara and Hatsue Miyabara, and Mark Kakimoto, Lessees, was served a Notice of Default by certified mail dated September 16, 2005 for:

- ☒ Failure to keep lease rental payments current
- ☐ Failure to post required performance bond
- ☐ Failure to post required fire insurance policy
- ☐ Failure to post required liability insurance policy

Said notice, accepted by the Lessee on September 28, 2005, offered the Lessee a thirty-day cure period to correct the default. This cure period expired on October 28, 2005. As of August 30, 2006 this breach has not been cured.

As of August 30, 2006, the current status of all lease compliance items is as follows:

RENT: The Lessee has a rental delinquency of \$332.50 for the time period from February 17, 2005 to February 15, 2006. \$1,140.00 for the time period from February 16, 2006 to February 16, 2007. Late fees total \$600.00

INSURANCE: The Lessee has posted the required liability insurance policy. Expires on October 6, 2006.

PERFORMANCE BOND: The Lessee has posted only \$930.00 of the \$1,140.00 performance bond required. This bond is in the form of unsecured personal surety.

CONSERVATION PLAN: The Lessee has not submitted a conservation plan.

The Lessees in the past two years, Notice of Default were issued on:

October 29, 2003	Owing \$282.50	Paid November 10, 2003
May 25, 2004	Owing \$382.50	Paid June 14, 2004
July 6, 2005	Owing \$382.50	Partial payment paid on August 12, 2005
September 16, 2005	Owing \$382.50	NO payment

June 27, 2006	Performance Bond	Balance due \$1350.00
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Staff did contact Mr. Mark Kakimoto, who agreed to make arrangements to pay the delinquent rent. Mr. Kakimoto failed to submit any payment to either Fiscal Office or our office.

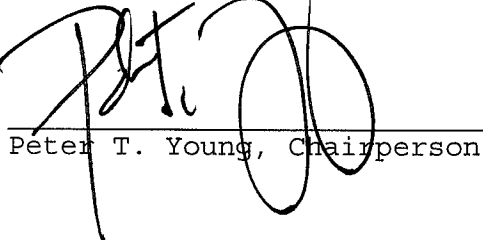
RECOMMENDATION: That the Board:

1. Authorize the cancellation of General Lease No. S-3960 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under General Lease No. S-3960 to be applied to any past due amounts;
3. Terminate the lease and all rights of Lessee and all obligations of the Lessor effective as of August 25, 2006, provided that any and all obligations of the Lessee which have accrued up to said effective date or which are stated in the lease to survive termination shall endure past such termination date until duly fulfilled, and further provided that Lessor reserves all other rights and claims allowed by law; and
4. Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under General Lease No. S-3960 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,

  
Thomas Oi  
Kauai District Land Agent

APPROVED FOR SUBMITTAL:

  
Peter T. Young, Chairperson

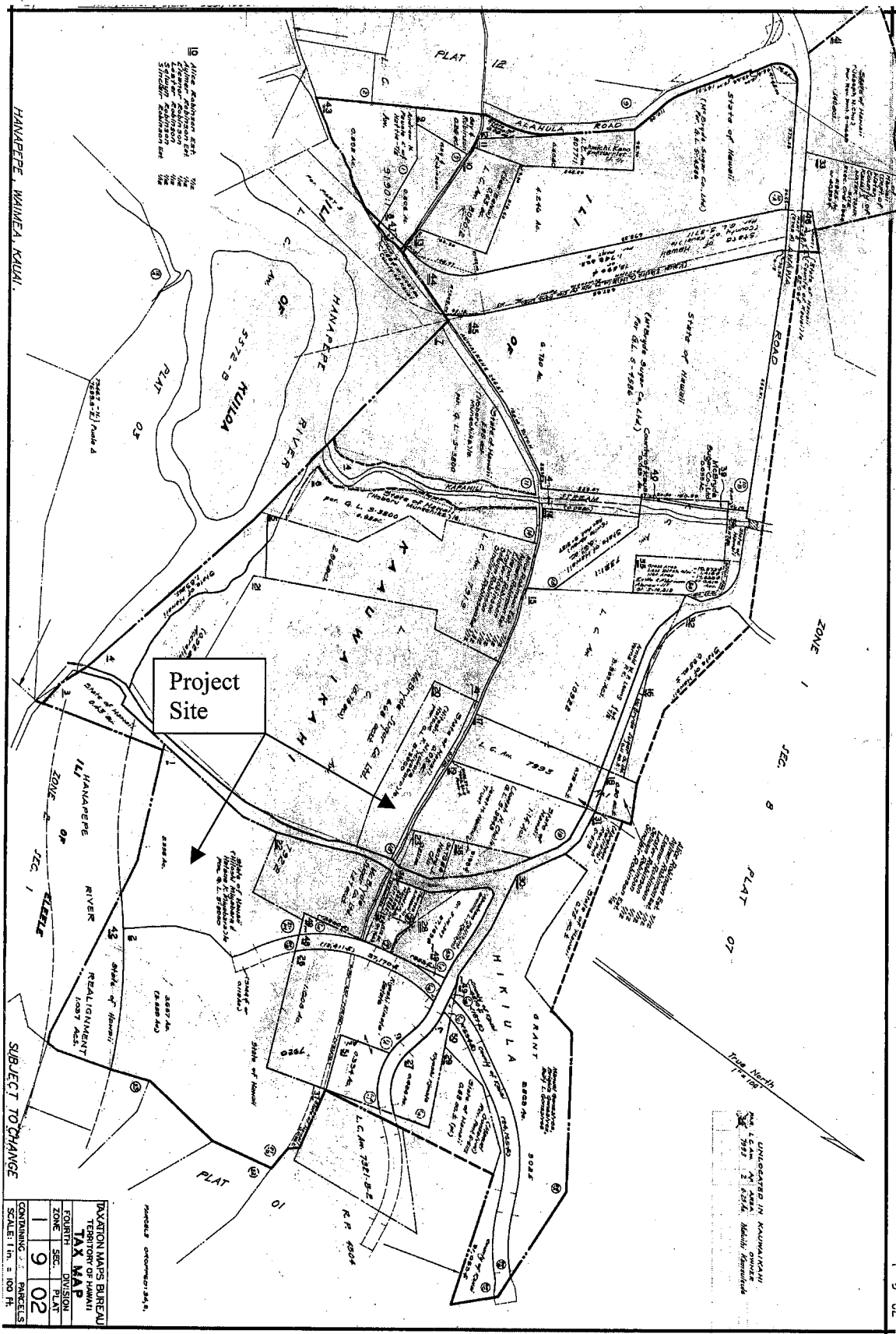


EXHIBIT A